

Agenda Bill

City Council Joint Meeting
October 06, 2020



SUBJECT:	Discussion: CARES Act Implementation		
DATE SUBMITTED:	September 30, 2020		
DEPARTMENT:	City Manager's Office		
NEEDED FROM COUNCIL:	<input type="checkbox"/> Action <input checked="" type="checkbox"/> Direction <input type="checkbox"/> Informational		
RECOMMENDATION:	Direct the City Manager to submit the EF&R COVID-19 related expenses, and to include any other documented COVID-19 related expenses as determined by staff, to the State Department of Commerce for full reimbursement of the City's allotment of Coronavirus Relief Funds totaling \$2,898,450.		
EXHIBITS:	1. Exhibit 1 - Letter from EF&R		
BUDGET:			
Total dollar amount	\$2,898,450	<input type="checkbox"/>	Approved in budget
Fund(s)	CARES Act	<input type="checkbox"/>	Budget reallocation required
		<input checked="" type="checkbox"/>	No budgetary impact
WORK PLAN FOCUS AREAS:			
<input type="checkbox"/> Transportation	<input type="checkbox"/> Community Safety		
<input type="checkbox"/> Communication & Engagement	<input checked="" type="checkbox"/> Community Livability		
<input checked="" type="checkbox"/> High Performing Government	<input type="checkbox"/> Culture & Recreation		
<input type="checkbox"/> Environmental Health & Protection	<input type="checkbox"/> Financial Sustainability		

NEEDED FROM COUNCIL:

Should the City Council approve the recommendation of the City Manager to submit for CARES Act fund reimbursement from the Department of Commerce for the eligible public safety expenditures and other eligible COVID-19 related expenditures as staff may determine?

KEY FACTS AND INFORMATION SUMMARY:

Background

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act; P.L. 116-136), signed into law on March 27, 2020, created the Coronavirus Relief Fund, which provided \$150 billion in direct assistance for states, large local governments, territories, and tribal areas. The State of Washington, through the Department of Commerce, awarded nearly \$300 million dollars of its allocation from this Fund to local governments that did not receive a direct distribution from the Treasury.

The State's distribution to local governments with populations less than 500,000 was done on a per capita basis, which resulted in Sammamish initially being allocated \$1,932,300. On August 31, the Governor announced an increase of \$125 million awarded to local governments, of which Sammamish was allocated an additional \$966,150, bringing the City's total award to \$2,898,450.

In order to access these funds, the City must have had eligible expenditures, as defined by the Treasury, between March 1, 2020 and November 30, 2020. The City must submit these expenditures to Commerce by December 15, 2020 in order to receive reimbursement. More information about the program may be found on the [Department of Commerce webpage](#).

Recommendation

After consideration of potential options for using the \$2.9M in CARES funding, the City Manager is recommending the City seek reimbursement for Eastside Fire & Rescue (EF&R) expenses. This would create budget savings on the EF&R contract in an equivalent amount (\$2.9M), which would be used to continue providing COVID-19 support to the community without the restrictions associated with federal funds.

Benefits

The primary benefit of this plan is that it eliminates the CARES Act time restrictions that require the City to spend the entire \$2.9M by November 30, 2020. With future federal relief funding uncertain, the City desires to ensure there is enough money available to address community needs beyond November 30. This plan allows the City to be agile and have funds available should, for example, a second wave of cases hit Washington this winter. It also allows the City to fund nonprofits for services beyond November 30; some nonprofits staff spoke with were concerned about funding availability post-CARES. Additionally, the City can ensure local businesses are supported beyond November 30. According to the Federal Emergency Management Agency (FEMA), 40% of businesses do not reopen following a disaster, and another 25% fail within one year.

Another benefit of this plan is that it eliminates certain restrictions and requirements imposed when using federal funds. For example, the emergency nonprofit grants approved by the City Council on September 15 would be considered subrecipient grants under federal law. Complying with subrecipient requirements adds significant burden to staff and the funded agencies, thereby slowing the provision of funding. Using City dollars is faster and less burdensome for both parties.

Finally, the City will be required to have a single audit as a result of receiving over \$750,000 in federal funds. The single audit is a complex and very detailed process. No audit guidelines yet exist for this program and therefore agencies must exercise caution in the allocation of any expenses that it may wish to submit for reimbursement. Submitting reimbursement for one EF&R expense is likely "safer" than submitting hundreds of expenses for grants, supplies, and other COVID-19 expenditures as there is less room for error. For example, if any grant provided by the City did not exactly meet federal requirements, or any other expense was deemed ineligible, the City may be required to repay that portion of the funds.

Eligibility

Staff, Legal and Chief Clark held a call with Tony Hanson, Deputy Assistant Director for the Local Government Division at the Department of Commerce, to confirm the eligibility of using the City's CARES allocation for EF&R expenses. Mr. Hanson stated unequivocally that the EF&R reimbursement plan was an allowable use of the funds. He even suggested it was a smart way to use the funds given the time limitations under CARES.

He pointed to [recently updated guidance](#) from the Treasury Office of Inspector General (OIG) as support, which reads:

70(a). Will a government have to demonstrate/substantiate that a public health or public safety employee's function/duties were in fact substantially dedicated to mitigating the emergency?

No, the government will not have to demonstrate/substantiate that a public health or public safety employee's function/duties were substantially dedicated to mitigating the emergency but must maintain records and documentation supporting payroll amounts reimbursed using CRF proceeds. As indicated in Treasury's Guidance, as an administrative accommodation, governments may presume that public health and public safety employees meet the substantially dedicated test, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise. Treasury's FAQs add that entire payroll cost of an employee whose time is substantially dedicated to mitigating or responding to the COVID-19 public health emergency is eligible, provided that such payroll costs are incurred by December 30, 2020.

70(b). For payroll that was accounted for in the FY2020 budget but was then "presumed" to be substantially dedicated to mitigating the emergency, will the government have to demonstrate/substantiate that a public health or public safety employee's function was a substantially different use?

No, the government will not have to demonstrate/substantiate that a budgeted public health or public safety employee's function was a substantially different use. As stated in Treasury's Guidance, within the category of substantially different uses, Treasury has included payroll and benefits expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID19 public health emergency. The Treasury OIG does require the government to maintain budgetary records to support the fiscal years 2019 and 2020 budgets.

This guidance is in addition to other Commerce and Treasury FAQs that support the use of CARES funding for public safety expenditures.

Commerce initially developed a five question test based on the Treasury's guidance to help cities determine whether a cost might be eligible for reimbursement. Mr. Hanson noted this test was not intended to limit expenditures to only those that meet all five criteria, but to assist cities in their decision making process. The City's plan to seek reimbursement for EF&R expenses is compliant with the Treasury's guidance on which this test is based.

Some community members have asked how EF&R expenses are eligible when the CARES Act requires payments be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. According to [the Treasury](#), "A cost meets this requirement if . . . the cost is for a substantially different use from any expected use of funds." As described in question 70(b) from the OIG guidance shown above, payroll and benefits expenses for public safety employees substantially dedicated to COVID19 response are included within the category of "substantially different use." Further, question 70(a) shown above says, "governments may presume that public health and public safety employees meet the substantially dedicated test."

Expenditures

Chief Clark and his team performed an analysis of operations expenses for Emergency Medical Services that are “substantially dedicated” to the COVID-19 response. It was determined that between March 1, 2020 and November 30, 2020, they expect to have approximately \$3M in budgeted EMS operations payroll dedicated to Covid-19 response in Sammamish, which would exceed the \$2.9M that is available for reimbursement.

Conclusion

To date, the City has granted emergency support funding to nonprofit organizations that provide rental assistance, food distribution, senior services, mental health support, legal support and more to residents negatively impacted by COVID-19. The City implemented a small business grant program to ensure the health of the local economy. It also set up a documentation system to capture expenditures incurred in responding to the COVID-19 emergency, such as teleworking equipment and space modifications. The City would like to continue building on this positive community support going forward.

The Department of Commerce has confirmed that seeking reimbursement for EF&R expenses would be an eligible use of the City's \$2.9M CARES allocation. This approach allows the City to continue supporting businesses, nonprofits, and government operations beyond November 30.

The \$2.9M in budget savings realized on the EF&R contract will be earmarked specifically for COVID-related expenses. Staff will track this funding and report out periodically to Council.

FINANCIAL IMPACT:

Based on the letter from Eastside Fire & Rescue (Exhibit 1), dated September 28, 2020, the actual proportional share of COVID-19 related Emergency Medical Services expenses is calculated to be \$2,011,550 from March 1, 2020 - August 31, 2020. They have projected an additional \$1,005,775 in expenses for the months of September through November. Therefore, the total amount expected to be spent on eligible EMS expenses during the Commerce contract period of March 1, 2020 - November 30, 2020 is \$3,017,325. This exceeds the \$2.9 million the City is eligible to receive in reimbursement from Commerce.



Eastside Fire & Rescue

Proudly Serving Issaquah, North Bend, Sammamish and Fire Districts 38 & 10, which includes Carnation

September 28, 2020

City of Sammamish

Aaron Antin, Assistant City Manager/Director of Finance & Risk Management

801 228th Ave SE.

Sammamish, WA 98075

RE: City of Sammamish CARES Act justification for COVID-19 related payroll expenses

The City of Sammamish (the City) delivers fire services in partnership with four public entities through an Interlocal Agreement (ILA), creating Eastside Fire & Rescue (EF&R). Sammamish provides oversight and approval of all operations through their two positions on the Board of Directors. In 2020, the City was responsible for a payment of \$7,908,661. This payment represents the proportional share of partnership operational cost.

Since February 28, 2020, and in response to COVID-19, EF&R's operational workforce has been substantially dedicated to responding to COVID-19 incidents for Emergency Medical Service (EMS) responses. To determine the portion of the City's payment related to COVID-19 payroll operational costs, the following steps were taken:

1. Calculate the portion of EF&R budget that is substantially dedicated to COVID-19 by determining the portion of budget dedicated to EMS response.
 - a. Based on 2019 data, determine the percentage of operational activities dedicated to fire response (31%)
 - b. Based on 2019 date, determine the percentage of operational activities dedicated to EMS response (69%)
2. Calculate the percentage of overall Operational costs that the City is responsible for paying by dividing the overall operational budget by the City's payment (25.4%).
3. Subtracted the payroll costs associated with fire suppression operations, leaving the EMS Salaries and Benefits totaling \$1,804,418.42 (Sammamish percentage share)
4. Included the addition of Aid 189, the additional EMS unit assigned to Issaquah Fall City Rd Construction - \$207,131.08 (Sammamish specific cost).

Calculations:

2020 EF&R Operational Expense: From March, 2020 through August, 2020, 100% of EMS workload has been “substantially dedicated” to COVID-19 preparedness and response.

Eastside Fire & Rescue Salaries & Benefits - City of Sammamish		
Title	March - August 2020	Monthly
Salaries Expense - Suppression	6,717,283.17	
Reserve CR FCAU Pay	60,750.00	
Overtime Pay - Suppression	514,742.85	
Acting Pay and Station Moves	17,053.32	
Educational Incentive Pay - Suppression	66,320.92	
Deferred Compensation - Suppression	226,815.83	
Longevity Pay - Suppression	308,908.26	
Sick Leave Expense - Suppression	106,533.38	
Vacation Expense - Suppression	49,559.21	
Healthcare Benefits - Suppression	1,194,772.90	
Disability Insurance - Suppression	99.24	
WA PFML - Suppression	12,453.93	
Payroll Taxes - Suppression	378,025.60	
Post Retirement Medical - Suppression	175,825.00	
Pension - Suppression	466,522.37	
Total Salaries & Benefits	\$ 10,295,665.98	\$ 1,715,944.33
EMS Salaries & Benefits (69%)	\$ 7,104,009.53	
City of Sammamish percentage share	25.40%	
Sub Total	\$ 1,804,418.42	\$ 300,736.40
Cost paid by City of Sammamish		
Aid 189 cost	207,131.08	
City of Sammamish Share of EF&R payroll cost	\$ 2,011,549.50	\$ 335,258.25
Emergency Manager Position	79,074.87	
Total City of Sammamish Share of EF&R Suppression/EMS cost	\$ 2,090,624.37	\$ 348,437.39

Based on the data presented above the following conclusions can be made:

1. \$2,011,549.50= Total amount of EMS operations payroll dedicated to COVID-19 responses from March 1, 2020 – August 31, 2020 that the City paid.
2. \$1,005,774.75 = Total additional amount the City of Sammamish can expect to pay for EMS operations payroll for the months of September, October, and November.

Please let me know if you require additional information from us.

Respectfully,

A handwritten signature in black ink, appearing to read "Jeff Clark". The signature is fluid and cursive, with the first name "Jeff" being more prominent than the last name "Clark".

Jeff Clark
Fire Chief

Cc: Chris Gianini, Deputy Finance Director
Dave Rudat, City Manager